

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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KENNETH BINGHAM,

Plaintiff,

vs.

COMPLAINT

J. RYNKEWICZ, CORRECTIONAL
OFFICER,

Defendant.

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By and through this and a related action to be filed in the Court of Claims, plaintiff seeks compensation for the brutal beating administered to him by defendant on August 13, 2016, which beating has caused him severe and permanent injuries.

I. PARTIES

1. At all times relevant hereto, plaintiff, Kenneth Bingham, was incarcerated in the Regional Medical Unit at the Wende Correctional Facility.

2. At all times relevant hereto, defendant, J. Rynkewicz, was employed by the State of New York as a correctional officer at the Wende Correctional Facility and acting under color of state law.

II. JURISDICTION

3. As defendant engaged in the use of excessive force which constitutes cruel and unusual punishment and did so in this judicial district and without due process of law, this Honorable Court has jurisdiction over this action pursuant to 28 U.S.C. secs. 1331, 1343 (3) & (4) and 42 U.S.C> secs. 1983 and 1988.

4. Following the event in question, plaintiff timely filed a grievance against the offending defendant.

5. Following the event in question, the defendant filed disciplinary charges against plaintiff.

6. The disciplinary charges against plaintiff were eventually dismissed as unfounded and the defendant disciplined by his employer for the actions complained of herein.

III. STATEMENT OF FACTS

7. Plaintiff is a paraplegic and permanently wheel-chair bound.

8. On August 13, 2016, at approximately 7:30 a.m., without provocation, defendant struck plaintiff from behind, punching him more than twenty times to the back of his head, neck, and the left side of his face, causing him to bleed profusely and to fall out of his wheelchair.

9. Defendant punched plaintiff's head and face with such force as to cause multiple fractures, specifically of the orbital wall and floor of plaintiff's left eye and other specified skull and facial bones.

10. While striking plaintiff repeatedly, defendant exclaimed that "I'm going to kill you, mother fucker."

11. The recounted physical assault caused extensive edema and hemorrhaging, as well as fractures to numerous bones.

12. As a direct result of this physical attack, plaintiff fell out of his wheelchair and broke his anterior left third rib.

13. Defendant's malicious and wanton conduct, as outlined above, caused severe physical injuries, which include double and reduced vision and nerve damage to his face.

14. Defendant's malicious and wanton conduct, as outlined above, caused plaintiff severe pain and emotional anguish and required plaintiff to undergo several surgical procedures and to take pain medication for months.

15. Plaintiff is continuing with ongoing medical treatments arising from this assault.

16. Following this malicious and wanton assault, defendant fabricated official reports, claiming that plaintiff had spit at him and attempted to hit him.

17. These claims were baseless and a dishonest attempt to provide cover for the vicious and inhumane attack by defendant upon plaintiff.

18. On the basis of these reports, plaintiff was sanctioned and isolated in inferior conditions between the date of this event and his release from the facility.

19. Based upon these baseless claims and the false testimony defendant provided in support thereof, plaintiff was assigned to SHU for 270 days.

20. Upon appeal, the disciplinary charges against plaintiff were dismissed and this punishment erased from his record.

21. **CAUSES OF ACTION**

22. Plaintiff incorporates paras. 1-20 as if fully re-written herein.

23. By engaging in excessive force as described above, defendant Rynkewicz violated the 8th and 14th Amendments to the United States Constitution as made actionable in this court by 42 U.S.C. section 1983.

24. By knowingly and intentionally writing and submitting false disciplinary reports, baselessly charging plaintiff with misconduct, including insubordination and so testifying at internal departmental hearings, defendant Rynkewicz violated plaintiff's right to due process of law as provided by the 14th Amendment to the United States Constitution, as made actionable in this Court by 42 U.S.C. section 1983.

V. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays that this Honorable Court accept jurisdiction in this matter, empanel a jury to hear the matter, award to plaintiff \$2,500,000 in compensatory damages and an equal sum against defendant in punitive damages in addition to the reasonably incurred attorney's fees and costs arising from the prosecution of this matter and enter any other order or relief which the court believes is required by the interests of law or equity.

Respectfully submitted,


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